

Upon reflection, given that matters outside of the pleadings have been submitted and must be considered by the Magistrate Judge, Defendants' motions to dismiss (Docket Entry Nos. 22, 38, 46 and 47) are **TERMINATED as moot**. *See* Fed. R. Civ. P. 12 ("If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.")

Accordingly, Defendants are given twenty-one (21) days to re-file their motions as motions for summary judgment pursuant to Fed. Riv. P. 56 and Local Rule 56.01. Plaintiff shall have twenty-eight (28) days to respond.

It is so **ORDERED**.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge